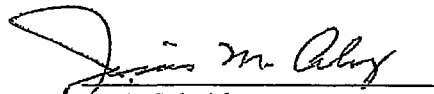


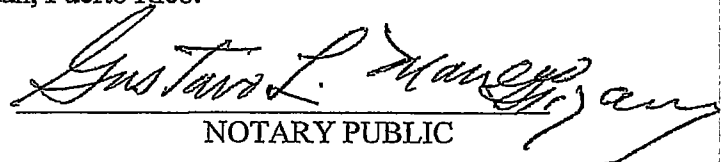
- 14.7. PRW business clients will also lose their webhosting service. PRTC's Notification does not make any provisions for the handling of webhosting services. PRTC's webhosting accounts lack significant functionality when compared to PRW's webhosting accounts.
- 14.8. Finally, the uncoordinated discontinuance of the DSL service will create multiple billing problems for all the 1,300 PRW DSL clients. Complicated billing adjustments would have to be made to each and every client. Because service cycles for many accounts do not start on the first of the month, adjustments and refunds will be required for those clients.
15. The discontinuance of PRTC's DSL common carrier services is an urgent matter to PRW and its own survival as an ISP entity in Puerto Rico hinges on having enough time to migrate all of PRW's ISP clients to another broadband network. Availability of an entry level broadband alternative is key to PRW's ability to retain existing clients and new clients.
16. PRW has estimated that it needs at least four (4) months of "transition" time to properly migrate its Internet clients to another DSL transport service provider and to diminish the disruptions to the services provided to PRW's 1,300 clients.
17. This concludes my Affidavit.

  
Jesús M. Alvarez

AFIDAVIT NO. 5957 —

SUBSCRIBED and SWORN before me by Jesus M. Alvarez, which was identified with Puerto Rico driver's license number 0996358, and who is married, of legal age, resident of San Juan, Puerto Rico, and is President of Puerto Rico WebMasters, this 13th day of September, 2008, in San Juan, Puerto Rico.



  
NOTARY PUBLIC



August 29, 2008

Mr. Jesús Alvarez, President  
Puerto Rico WebMasters  
1259 Fernandez Juncos Ave.  
San Juan, PR 00907

**Re: DSL Discontinuance Notice**

Puerto Rico Telephone Company, Inc. ("PRTC") currently provides to its retail customers Digital Subscriber Line (DSL) access service as a common carrier of facilities-based wireline broadband Internet access transmission.


Pursuant to 47 C.F.R. §63.71 and to the Federal Communication Commission's Report and Order and Notice of Proposed Rulemaking CC Docket Nos. 02-33 and 01-337 released on September 23, 2005, FCC 05-150 ("Wireline Broadband Order"), PRTC is required to provide notice to existing DSL customers of its intent to discontinue the offering of the common carrier broadband Internet access transmission services.

Even though Puerto Rico WebMasters is not a DSL customer, by this letter and pursuant to the aforementioned, PRTC hereby notify you of its decision to discontinue offering DSL service on a common carriage basis effective on October 1, 2008 ("the effective date"). Consequently, after the effective date, PRTC will offer this service solely as a private carrier. By this action, PRTC will offer to the existing DSL customers its current wireline broadband Internet access service, commercially known as DMAX. Therefore, as of the effective date, DMAX customers will not be able to use their wireline broadband access with another Internet service provider.

We have appreciated the cordial business relationship we have shared with you and wish your company continued success.

Please contact me at 787-775-7600 if you have any doubt or need any further information.

Regards,

  
Roberto Correa  
PRTC Wholesale Director

C: Lina Nazario  
Walter Arroyo  
Félix González



28 de agosto de 2008



Engineering Support  
PO Box 9111  
San Juan PR 00908-0111

Estimado Cliente:

¡Buenas noticias para usted, una oferta difícil de resistir! Como cliente de DMAX, ahora podrá obtener nuestro servicio de DSL (banda ancha) e Internet con el doble de velocidad – **1 Mega** – por tan sólo **\$24.95** al mes por los primeros 3 meses. Además, continuará con todos los beneficios que le ofrece **DMAX**, incluyendo 2 cuentas de correo electrónico y capacidad de almacenaje para páginas de Internet de 10 Mega. También cuenta con **PhoneMAX**, una segunda línea telefónica virtual, sin costo que le ofrece llamadas ilimitadas a toda la Isla gratis, llamadas a EE.UU. a 5¢ el minuto, y más.

A partir del 1ro. de octubre de 2008, PRT será su proveedor de DMAX. El precio a pagar si es cliente de DMAX 512 es \$24.95 y podrá disfrutar de 1 Mega de velocidad por los primeros tres meses. Si actualmente es cliente de DMAX 1 Mega, pagará \$24.95 en oferta por los primeros tres meses. Visite nuestra página [www.telefonicapr.com](http://www.telefonicapr.com) o comuníquese al (787) 775-0000 para más información sobre nuestra variada gama de servicios de telecomunicaciones.

Los clientes con DMAX 2 Mega pagarán \$59.95 y DMAX 5 Mega \$84.95 a partir del 1ro. de octubre de 2008.

Esta oferta surge a consecuencia de que Puerto Rico Telephone, conforme a la reglamentación federal vigente, discontinuará su ofrecimiento de transporte de banda ancha o DSL ("Digital Subscriber Line", por sus siglas en inglés) como un acarreador común, efectivo el 1 de octubre de 2008. A partir de esta fecha, se ofrecerá el servicio de acceso al Internet de banda ancha ("Broadband Internet Access", por sus siglas en inglés) como un acarreador privado. Dicho servicio incluye el transporte de banda ancha y el acceso al Internet como un solo servicio conocido comercialmente como DMAX. El área geográfica afectada por este cambio cubrirá a todo Puerto Rico, en los lugares donde el servicio de DSL está disponible.

Recuerde que en Puerto Rico Telephone estamos para servirle. Manténgase conectado siempre con **DMAX** de PRT.

Cordialmente,

Puerto Rico Telephone  
Ave. Roosevelt #1515  
Guaynabo, Puerto Rico 00968

Términos y condiciones en [www.telefonicapr.com](http://www.telefonicapr.com)

P.O. Box 360998, San Juan Puerto Rico 00936-0998





## PUERTO RICO WEBMASTERS

1259 Fernández Juncos Ave.

San Juan, PR 00907

PO Box 9111

San Juan, PR 00908

Tel 787-723-5000 Fax 787-722-6242

September 2, 2008

Mr. Roberto Correa  
PRTC Wholesale Director

RE: DSL Discontinuance Notice

Dear Mr. Correa,

This letter is to request a meeting to discuss the DSL discontinuance notice outlined in your letter. We respect your prerogative in discontinuing the DSL transport service to customers of independent ISPs but believe that several important issues need to be discussed and coordinated properly to avoid a disastrous impact to current clients.

It is of utmost importance that service is not interrupted for our 1,350 customers paying for your DSL transport and that they are given the choice of selecting without penalty their preferred broadband alternative. The great majority of those customers have been with PRW for several years, having started with a dialup connection and eventually upgrading to a broadband service. The deadline stated on your letter does not provide adequate time for making alternate arrangements without a significant risk of service interruption. You can not assume that all of our customers will opt for the DMAX service and they should have the freedom to pursue other alternatives, including alternate service offerings by PRW. Note that ALL of them had the option to select DMAX as their broadband provider and chose to go with PRW, even after being pursued by your sales representatives with attractive offers.

It is unfortunate that you have selected to discontinue offering consumers a choice of broadband ISP for DSL, even when the financial terms clearly favor your company. As you may be aware, even if a majority of our customers opt for your DMAX service, the net revenue effect to your company will be negative. Yet I realize other priorities may be in place.

It is our best interest to pursue this effort with the same cordial and amicable terms of all other transactions over the past 10 years. In contrast to many other companies in this industry that are in constant litigation, PRW has pursued mutually advantageous relationships with our infrastructure providers, minimizing conflicts and handling any misunderstandings in a courteous and respectful manner. I hope you give us the opportunity to do so in this case.

I will call you later this morning to schedule a meeting time. If you have any questions on these matters, please contact me directly on my cell phone 787-525-8536.

Sincerely,

Jesús Alvarez  
President

CC: Ms. Lina Nazario  
Mr. Walter Arroyo  
Eng. Félix González



# GRAY\ROBINSON

ATTORNEYS AT LAW

Francisco A. Rullan

954-761-8111

FRANK.RULLAN@GRAY-ROBINSON.COM

September 9, 2008

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JACKSONVILLE  
KEY WEST  
LAKE LAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA

## BY MESSENGER AND ELECTRONIC MAIL

Mr. Francisco Silva Salcedo  
General Counsel  
Puerto Rico Telephone Company, Inc.  
1515 Roosevelt Avenue, 10<sup>th</sup> Floor  
Caparra Heights, PR 00921

### Re: Discontinuance Notice of PRTC's Common Carrier Broadband Internet Access Transmission Service

Dear Mr. Silva:

Recently, Puerto Rico Webmasters ("PRW") received a letter from Puerto Rico Telephone Company ("PRTC") dated August 29, 2008, whereby PRTC informs that effective October 1, 2008 PRTC will cease offering to its retail customers Digital Subscriber Line ("DSL") access service as a facilities-based wireline broadband Internet access transmission "common carrier." See Attachment. PRTC's letter effectively gave PRW a 30 day notice for the termination of the DSL service it has provided PRW for the past four (4) years. Moreover, PRTC sent a notification dated August 28, 2008 to approximately 1,300 of PRW's DSL Internet clients ("Notification") informing them that effective October 1, 2008, PRTC will move all DSL accounts to DMAX service and that PRTC will also become its Internet Service Provider ("ISP"). See Attachment. In other words, the notice to PRW's clients implicitly states that PRW will not provide them Internet service anymore and that PRTC is taking over the ISP's DSL service. Furthermore, PRTC did not communicate or coordinate with PRW before sending the Notification to PRW's 1,300 Internet clients.

On September 2, 2008, PRW wrote a letter to PRTC whereby it objected to the limited and unreasonable timeframe provided for the termination of DSL transport service and the Notification, and requested a meeting with PRTC. On September 5, 2008, PRW and PRTC met and discussed some of the issues. The meeting, however, did not resolve any of the issues. Therefore, the issues have become urgent and require an expedient response from PRTC.

Regarding the Notification, such notice is clearly illegal. PRTC simply cannot just take the more than 1,300 ISP clients from PRW without the consent and authorization of such clients. Moreover, some of these 1,300 clients have contractual agreements with PRW. PRTC is, therefore, tortiously interfering with PRW's contracts and commercial relationships. Therefore, we hereby respectfully request PRTC to amend the Notification or send a second notification



Francisco Silva  
September 9, 2008  
Page 2

specifically informing all of PRW's clients all the options they have after October 1, 2008, including staying with PRW as their ISP with an alternative DSL access service provider. PRW's Internet customers have the right and freedom to pursue other service alternatives, including alternate service offerings by PRW, before the DSL transport service is discontinued by PRTC.

Regarding the 30 days notice provided to PRW before PRTC terminates its DSL service, such time is unreasonable, anticompetitive, and illegal. The Federal Communications Commission's Report and Order and Notice of Proposed Rulemaking, CC Docket Nos. 02-33 and 01-337, released on September 23, 2005, FCC 05-150 ("Wireline Broadband Order") requires a reasonable notification to "avoid unnecessary customer disruption." Id. at ¶ 99. Specifically, the Wireline Broadband Order states that "to protect these customers against abrupt termination of service, we require that a carrier discontinuing common carrier broadband Internet access transmission service shall provide affected customers with advance notice of discontinuance." Id. at ¶ 101. "Advance notice of discontinuance" does not mean 30 days notice. Actually, the Wireline Broadband Order implies that the advance notice should be more than 30 days because it states that PRTC must notify the FCC "on or after the date it provides the advance notice to its customers and at least 30 days prior to the date of which the service will be discontinued." Id. Obviously, and as explained further below, 30 days is not sufficient time to protect customers against abrupt termination of service.

It must be pointed out that if PRTC continues with its plan to discontinue DSL service to PRW and its 1,300 DSL clients, many service disruptions and technical problems will occur to many of the 1,300 PRW's Internet clients. Moreover, the lack of a reasonable and adequate notice will cause and is causing substantial damages to PRW.

Some of the technical and service disruptions we foresee are the following:

1. PRTC has not provided a clear migration path from the PRW Internet service to its Internet service. Although the PRTC letter implies that the change will occur automatically on October 1, each of the 1,300 PRW Internet customers would need to be assigned a new username and password as well as a new email address. They can not login to the PRTC network using the existing PRW username and address stored on their DSL modems.
2. An abrupt cutoff of the DSL service could result in major problems to many of the 1,300 PRW DSL customers like the loss of their email address. Many customers use their PRW email address as their primary contact address. Changing their address to a PRTC email address in such a short time period could disrupt their email service and lead to lost messages.

Francisco Silva  
September 9, 2008  
Page 3

3. Many of the 1,300 PRW DSL clients will lose email capabilities. Several IP blocks of the PRT network are blacklisted because of lack of proper SPAM controls and corrective action. Changing their DSL connection to the PRTC network could affect the ability of customers to send email.
4. Many of the 1,300 PRW DSL clients will lose their web space. Some customers use their web space for blogs and other public information services.
5. Many Business DSL accounts could have even greater problems. For example, the loss of their static IP address. The PRTC Notification makes no provisions for the assignment of static IP addresses on business accounts and the impact on their monthly fees. The static address of a business account is typically used for web services including email and virtual private networks (VPNs) for remote access. A change in the static IP address that is not properly coordinated could disrupt operations and result in monetary losses to such business clients.
6. PRW business clients will also lose special connectivity features. Several PRW business accounts take advantage of special connectivity features such as custom router setups, filtering, remote access, custom DNS and others. PRTC's Notification, however, makes no provisions for handling special features on business accounts. Loss of these features could significantly diminish the functionality of a business DSL connection.
7. PRW business clients will also lose their webhosting service. PRTC's Notification does not make any provisions for the handling of webhosting services. PRTC's webhosting accounts lack significant functionality when compared to PRW's webhosting accounts.
8. Finally, the uncoordinated discontinuance of the DSL service will create multiple billing problems for all the 1,300 PRW DSL clients. Complicated billing adjustments would have to be made to each and every client. Because service cycles for many accounts do not start on the first of the month, adjustments and refunds will be required for those clients.

PRW has had a good business relationship with PRTC for the past ten (10) years and would like to continue such good relations in the future. Besides the DSL service, PRW also uses other PRTC services directly or through third parties totaling more than \$250,000 a year and would like to continue purchasing such services from PRTC. Therefore, in order to resolve the current dispute and prevent further escalation of this matter we hereby provide a proposal that might resolve this matter.

Francisco Silva  
September 9, 2008  
Page 4

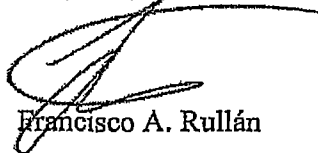
**PROPOSAL**

The "Wireline Broadband Order" nor any State or Federal law, regulation or rule prohibits PRTC from offering PRW and its 1,300 Internet clients a DSL transport service on a "non-carrier" basis at the same rate they are currently offering it. Therefore, in order to resolve the current dispute and avoid any litigation, PRW proposes a private agreement with PRTC whereby PRTC will provide the current DSL transport services to PRW and its clients on a private, "non-carrier" basis for a limited amount of time (four months). This additional amount of "transition" time will provide PRW with enough time to properly migrate its Internet clients to another DSL transport service provider and would diminish the disruptions to the services provided to PRW's clients. Of course, during this transition period, any of PRW's clients that decide to change to PRTC's DMAX service will also have that opportunity.

This is an urgent matter to PRW and its own survival as an ISP entity in Puerto Rico hinges in PRTC's decision. Therefore, please let us know by end of business day Friday, September 12, 2008, if you accept our proposal or if you have a reasonable counterproposal to offer PRW. If we do not hear from PRTC by such deadline, we will be forced to file whatever pleadings are necessary, in any applicable forum, to put an immediate stop to PRTC's unreasonable and illegal actions.

Any questions on the above please do not hesitate to contact me at (954) 761-7493.

Very truly yours,



Francisco A. Rullán

FAR:js

cc. Jesús Alvarez, President of PRW  
Walter Arroyo, Esq.  
Roberto Correa  
Félix González

Attachments





August 29, 2008

Mr. Jesús Alvarez, President  
Puerto Rico WebMasters  
1259 Fernandez Juncos Ave.  
San Juan, PR 00907

**Re: DSL Discontinuance Notice**

Puerto Rico Telephone Company, Inc. ("PRTC") currently provides to its retail customers Digital Subscriber Line (DSL) access service as a common carrier of facilities-based wireline broadband Internet access transmission.


Pursuant to 47 C.F.R. §63.71 and to the Federal Communication Commission's Report and Order and Notice of Proposed Rulemaking CC Docket Nos. 02-33 and 01-337 released on September 23, 2005, FCC 05-150 ("Wireline Broadband Order"), PRTC is required to provide notice to existing DSL customers of its intent to discontinue the offering of the common carrier broadband Internet access transmission services.

Even though Puerto Rico WebMasters is not a DSL customer, by this letter and pursuant to the aforementioned, PRTC hereby notify you of its decision to discontinue offering DSL service on a common carriage basis effective on October 1, 2008 ("the effective date"). Consequently, after the effective date, PRTC will offer this service solely as a private carrier. By this action, PRTC will offer to the existing DSL customers its current wireline broadband Internet access service, commercially known as DMAX. Therefore, as of the effective date, DMAX customers will not be able to use their wireline broadband access with another Internet service provider.

We have appreciated the cordial business relationship we have shared with you and wish your company continued success.

Please contact me at 787-775-7600 if you have any doubt or need any further information.

Regards,

  
Roberto Correa  
PRTC Wholesale Director

C: Lina Nazario  
Walter Arroyo  
Félix González

28 de agosto de 2008

|||||  
Engineering Support  
PO Box 9111  
San Juan PR 00908-0111

Estimado Cliente:

¡Buenas noticias para usted, una oferta difícil de resistir! Como cliente de DMAX, ahora podrá obtener nuestro servicio de DSL (banda ancha) e Internet con el doble de velocidad – **1 Mega** – por tan sólo **\$24.95** al mes por los primeros 3 meses. Además, continuará con todos los beneficios que le ofrece **DMAX**, incluyendo 2 cuentas de correo electrónico y capacidad de almacenaje para páginas de Internet de 10 Mega. También cuenta con **PhoneMAX**, una segunda línea telefónica virtual, sin costo que le ofrece llamadas ilimitadas a toda la Isla gratis, llamadas a EE.UU. a 5¢ el minuto, y más.

A partir del 1ro. de octubre de 2008, PRT será su proveedor de DMAX. El precio a pagar si es cliente de DMAX 512 es \$24.95 y podrá disfrutar de 1 Mega de velocidad por los primeros tres meses. Si actualmente es cliente de DMAX 1 Mega, pagará \$24.95 en oferta por los primeros tres meses. Visite nuestra página [www.telefonicapr.com](http://www.telefonicapr.com) o comuníquese al (787) 775-0000 para más información sobre nuestra variada gama de servicios de telecomunicaciones.

Los clientes con DMAX 2 Mega pagarán \$59.95 y DMAX 5 Mega \$84.95 a partir del 1ro. de octubre de 2008.

Esta oferta surge a consecuencia de que Puerto Rico Telephone, conforme a la reglamentación federal vigente, discontinuará su ofrecimiento de transporte de banda ancha o DSL ("Digital Subscriber Line", por sus siglas en inglés) como un acarreador común, efectivo el 1 de octubre de 2008. A partir de esta fecha, se ofrecerá el servicio de acceso al Internet de banda ancha ("Broadband Internet Access", por sus siglas en inglés) como un acarreador privado. Dicho servicio incluye el transporte de banda ancha y el acceso al Internet como un solo servicio conocido comercialmente como DMAX. El área geográfica afectada por este cambio cubrirá a todo Puerto Rico, en los lugares donde el servicio de DSL está disponible.

Recuerde que en Puerto Rico Telephone estamos para servirle. Manténgase conectado siempre con **DMAX** de PRT.

Cordialmente,

Puerto Rico Telephone  
Ave. Roosevelt #1515  
Guaynabo, Puerto Rico 00968

Términos y condiciones en [www.telefonicapr.com](http://www.telefonicapr.com)

P.O. Box 360998, San Juan Puerto Rico 00936-0998

SEP 25 2008

COMMONWEALTH OF PUERTO RICO  
PUERTO RICO TELECOMMUNICATIONS REGULATORY BOARD

FCC Mail Room

ENGINEERING SUPPORT SYSTEMS, INC. d/b/a  
PUERTO RICO WEBMASTERS,

Plaintiff

v.

PUERTO RICO TELEPHONE COMPANY, INC.,

Defendant.

Complaint No. JRT-2008-Q-0095

Re: EMERGENCY RELIEF AND  
PRELIMINARY INJUNCTION**COMPLAINT FOR  
EMERGENCY RELIEF**

TO THE HONORABLE BOARD:

COMES NOW Engineering Support Systems, Inc. d/b/a Puerto Rico WebMasters ("PRW"), by and through its undersigned counsel, and respectfully alleges and prays as follows:

**PRELIMINARY STATEMENT**

1. This action arises from Puerto Rico Telephone Company, Inc.'s ("PRTC") recent decision to unilaterally terminate on October, 1, 2008, its Digital Subscriber Line ("DSL") transmission common carrier services provided in Puerto Rico.

2. This DSL service termination will result in the effective and unwarranted disconnection of PRW's 1,300 Internet customers, a takeover by PRTC of such 1,300 Internet customers, and the destruction of PRW's goodwill and reputation in Puerto Rico.

3. PRW hereby seeks an emergency order requesting a temporary postponement or temporary injunction prohibiting PRTC from terminating such service for a period of at least

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four (4) months or until January 1, 2009. A four (4) month transition period will allow PRW to properly migrate its Internet clients to another broadband network.

### PARTIES

4. PRW is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico and authorized to do business in Puerto Rico. PRW is an Internet Service Provider ("ISP") as well as a de facto agent of PRTC's DSL transmission common carrier services in Puerto Rico. PRW is considered a "channel" seller of PRTC's DSL services in Puerto Rico and is given special access to PRTC's computer systems to enter new DSL clients into PRTC's data bases, among other benefits.

5. Defendant PRTC is a Puerto Rico corporation with its principal place of business located in Caparra Heights, Puerto Rico. PRTC is a telecommunications carrier and the only incumbent local exchange carrier ("ILEC") operating in Puerto Rico. PRTC sells DSL transmission services in Puerto Rico as a common carrier and has DSL tariffs in place. PRTC also pays universal service fees for the DSL transmission common carrier services it sells in Puerto Rico.

### JURISDICTION

6. Chapter II, Section 6 of Act 213 of September 12, 1996, Puerto Rico Telecommunications Act ("Act 213"), provides jurisdiction over this complaint: "The Board has jurisdiction over all telecommunications services and over all those persons which render these services in the Commonwealth of Puerto Rico and over any person with a direct or indirect interest in said services or companies."

7. PRTC is currently selling its DSL transmission services in Puerto Rico as telecommunications services as a common carrier. See Exhibit A; Federal Communications

*Commission's Report and Order and Notice of Proposed Rulemaking, CC Docket Nos. 02-33 and 01-337, released on September 23, 2005, FCC 05-150, ¶¶ 89-95 ("Wireline Broadband Order").*

8. After the issuance of the Wireline Broadband Order, PRTC elected to continue selling its DSL transmission services in Puerto Rico as telecommunications services. Id.

9. PRTC pays the applicable universal service fees for its DSL transmission common carrier services.

#### **STATEMENT OF FACTS**

10. PRW started providing Internet access services as an ISP in Puerto Rico in April, 1998 to both business and residential customers. PRW currently offers DSL, leased line and dialup connectivity to the Internet. Because transport services are required for its Internet access offerings, PRW maintains multiple relationships with local telecommunications companies.

11. In April, 2004, PRW started a business relationship with PRTC that allows it to provision DSL transport for its customers. Currently PRW has a "channel" code assigned on the PRTC DSL "channels" web site that allows PRW to enter DSL transport orders with PRTC on behalf of its Internet access customers. These orders are typically completed in seven to ten days when the customer receives a DSL modem from PRTC. After the service is activated, PRTC bills the DSL transport to PRW customers directly on their monthly telephone bill. As part of this business arrangement, PRW is also required to pay a DS3 link to the PRTC ATM network at a monthly cost of \$3,996. PRW bills its customers separately for the Internet access service. This "channel" relationship converts PRW into a de facto DSL agent of PRTC because PRW sells and activates for its customers PRTC's DSL transmission services for them to be able to use the PRW Internet access.

12. Recently, PRW received a letter from PRTC dated August 29, 2008, whereby PRTC informs that effective October 1, 2008, PRTC will cease offering to its retail customers DSL access service as a facilities-based wireline broadband Internet access transmission "common carrier." PRTC's letter effectively gave PRW a 30 day notice for the termination of the DSL service it has provided PRW for the past four (4) years.

13. PRTC sent a notification dated August 28, 2008 to approximately 1,300 of PRW's DSL Internet clients ("Notification") informing them that effective October 1, 2008, PRTC will move all DSL accounts to DMAX service and that PRTC will also become its Internet Service Provider ("ISP"). In other words, the notice to PRW's clients implicitly states that PRW will not provide them Internet service anymore and that PRTC is taking over the ISP service. Furthermore, PRTC did not communicate or coordinate with PRW before sending the Notification to PRW's 1,300 Internet clients.

14. On September 2, 2008, PRW wrote a letter to PRTC whereby it objected to the limited and unreasonable timeframe provided for the termination of DSL transport service and the Notification, and requested a meeting with PRTC.

15. On September 5, 2008, PRW and PRTC met and discussed the DSL service termination date, the Notification and other related issues.

16. On September 9, 2008, PRW sent PRTC by electronic mail and by messenger a letter warning them of the urgency of the matter, requesting them immediate action and providing them with an alternative proposal. The meeting and the letters, however, did not resolve any of the issues. Therefore, the issues have become urgent and require an expedient and urgent action from this Honorable Board.

17. If PRTC is not stopped, after October 1, 2008, PRTC will take the more than 1,300 ISP clients from PRW without the consent and authorization of such clients. Moreover, some of PRW's 1,300 Internet clients that PRTC will takeover as their ISP have ISP contractual agreements with PRW. Abrupt termination of the DSL service will disrupt operations and result in monetary losses to these PRW clients.

18. By sending the Notification and terminating the DSL service without an adequate advance notice, PRTC is tortiously interfering with PRW's contracts and commercial relationships with PRW's ISP clients.

19. The thirty (30) days notice provided to PRW before PRTC terminates its DSL transmission common carrier service is unreasonable, anticompetitive, and illegal.

20. The Federal Communications Commission's Report and Order and Notice of Proposed Rulemaking, CC Docket Nos. 02-33 and 01-337, released on September 23, 2005, FCC 05-150 ("Wireline Broadband Order") requires a reasonable notification to "avoid unnecessary customer disruption." *Id.* at ¶ 99. Specifically, the Wireline Broadband Order states that "to protect these customers against abrupt termination of service, we require that a carrier discontinuing common carrier broadband Internet access transmission service shall provide affected customers with advance notice of discontinuance." *Id.* at ¶ 101. "Advance notice of discontinuance" does not mean 30 days notice. Actually, the Wireline Broadband Order implies that the advance notice should be more than 30 days because it states that PRTC must notify the FCC "on or after the date it provides the advance notice to its customers and at least 30 days prior to the date of which the service will be discontinued." *Id.*

21. Thirty (30) days is not sufficient time to protect PRW and its 1,300 customers against "abrupt termination of service."

22. If PRTC continues with its plan to discontinue DSL transmission common carrier service to PRW and its 1,300 Internet clients, many service disruptions and technical problems will occur to many of the 1,300 PRW's Internet clients.

23. The lack of a reasonable and adequate notice will cause and is causing substantial irreparable damages to PRW's goodwill and reputation and loss of clients.

24. PRW is losing Internet clients since PRTC send the Notification. Many customers have implied that the discontinuance of the DSL service will lead to the closing down of the PRW Internet service. The discontinuance has also created uncertainties among PRW's staff regarding their continued employment with the company.

25. Some of the technical and service disruptions PRW's foresees because of PRTC's discontinuance of DSL service include but are not limited to the following:

A. PRTC has not provided a clear migration path from the PRW Internet service to its Internet service. Although PRTC implies that the change will occur automatically on October 1, each of the 1,300 PRW Internet customers would need to be assigned a new username and password as well as a new email address. They can not login to the PRTC network using the existing PRW username and address stored on their DSL modems.

B. An abrupt cutoff of the DSL service could result in major problems to many of the 1,300 PRW Internet customers like the loss of their email address. Many customers use their PRW email address as their primary contact address. Changing their address to a PRTC email address in such a short time period could disrupt their email service and lead to lost messages.

C. Many of the 1,300 PRW Internet clients will lose email capabilities. Several IP blocks of the PRT network are blacklisted because of lack of proper SPAM controls



and corrective action. Changing their DSL connection to the PRTC network could affect the ability of customers to send email.

D. Many of the 1,300 PRW Internet clients will lose their web space. Some customers use their web space for blogs and other public information services.

E. Many Business DSL accounts could have even greater problems. For example, the loss of their static IP address. The PRTC Notification makes no provisions for the assignment of static IP addresses on business accounts and the impact on their monthly fees. The static address of a business account is typically used for web services including email and virtual private networks (VPNs) for remote access. A change in the static IP address that is not properly coordinated could disrupt operations and result in monetary losses to such business clients.

F. PRW business clients will also lose special connectivity features. Several PRW business accounts take advantage of special connectivity features such as custom router setups, filtering, remote access, custom DNS and others. PRTC's Notification, however, makes no provisions for handling special features on business accounts. Loss of these features could significantly diminish the functionality of a business DSL connection.

G. PRW business clients will also lose their webhosting service. PRTC's Notification does not make any provisions for the handling of webhosting services. PRTC's webhosting accounts lack significant functionality when compared to PRW's webhosting accounts.

H. The uncoordinated discontinuance of the DSL service will create multiple billing problems for all the 1,300 PRW Internet clients. Complicated billing adjustments would have to be made to each and every client. Because service cycles for many accounts do not start on the first of the month, adjustments and refunds will be required for those clients.

26. The current situation is an urgent matter to PRW and its own survival as an ISP entity in Puerto Rico hinges in PRTC's illegal decision to discontinue the DSL transmission common carrier services on October 1, 2008 without a proper and adequate advance notification.

**COUNT I**  
**(Emergency Relief)**

27. PRW repeats, restates, and reiterates each and every allegation contained in Paragraphs 1 through 22, inclusive, as if fully set forth herein.

28. PRTC intends to discontinue its DSL transmission common carrier services in Puerto Rico on October 1, 2008.

29. PRTC has only provided PRW with 30 days to migrate its 1,300 Internet clients to another broadband network and if this migration is not performed within this limited period PRW will lose its 1,300 Internet clients and PRTC will takeover most if not all of PRW's Internet clients without their consent.

30. The 30 days notice provided by PRTC for termination of the DSL service is not only unreasonable and impracticable but it is also illegal and anticompetitive.

31. PRW needs at least until January 1, 2009 to do a proper and adequate migration of all of its 1,300 Internet clients, otherwise it will not only loose the customers but PRW's reputation and goodwill in Puerto Rico will be forever destroyed.

32. The termination of PRTC's DSL transmission common carrier service on October 1, 2008, would result in irreparable injury to PRW. This is the case, because undoubtedly such discontinuance of service would result in the total elimination of all of PRW's Internet clients in Puerto Rico (about 1,300 clients) as such termination of service did not provide sufficient time for PRW to migrate its Internet clients to a separate broadband network provider.

33. PRTC intends to transfer most if not all of PRW's Internet clients to its DMAX service, thereby interfering with dozens of agreements between PRW and its Internet clients.

34. The termination of DSL transmission common carrier service without an adequate transition and migration period will cause significant irreparable damages to PRW's goodwill and reputation in Puerto Rico because PRW's 1,300 Internet clients would suffer disruptions in their service and detrimental changes of email accounts, rates and services.

35. Accordingly, PRW respectfully submits that the present case constitutes an emergency situation that requires immediate Board attention and an emergency order and preliminary injunctive order prohibiting PRTC from terminating the DSL transmission common carrier service until January 1, 2009, at least to PRW and its Internet clients, pursuant to Rule 9 of this Board's General Practice and Procedures Regulations and the Board's cease and desist powers of Act 213.

#### **CONCLUSION AND PRAYER**

**WHEREFORE**, PRW respectfully requests that this Honorable Board issue an emergency relief order: (1) prohibiting PRTC from discontinuing its DSL transmission common carrier service, at least to PRW and its ISP clients, until January 1, 2009; and (2) directing PRTC to amend the Notification or send a second notification specifically informing all of PRW's clients all the options they have before the termination of the DSL service, including staying with PRW as their ISP with an alternative DSL access service provider.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 15th day of September 2008.

**PUERTO RICO WEBMASTERS**

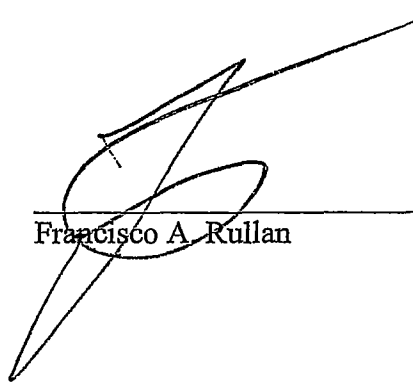
By: 

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Puerto Rico Bar No. 13202  
Gray Robinson, PA  
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[frullan@gray-robinson.com](mailto:frullan@gray-robinson.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing Complaint for Emergency Relief were delivered on September 15, 2008, by Federal Express next day delivery service and by electronic mail, to the following:

Francisco Silva Salcedo, Esq.  
Walter Arroyo, Esq.  
Puerto Rico Telephone Company, Inc.  
1515 Roosevelt Avenue, 10<sup>th</sup> Floor  
Caparra Heights, Puerto Rico 00921



Francisco A. Rullan

August 29, 2008

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: CC Docket No. 02-33 – Notice of Discontinuance of Common Carrier  
Broadband Internet Access Transmission Service**

Dear Ms. Dortch:

Puerto Rico Telephone Company, Inc. ("PRTC") currently provides to its retail customers Digital Subscriber Line (DSL) access service as a facilities-based wireline broadband Internet access transmission common carrier.

Pursuant to 47 C.F.R. §63.71 and to the Federal Communication Commission's Report and Order and Notice of Proposed Rulemaking CC Docket Nos. 02-33 and 01-337 released on September 23, 2005, FCC 05-150 ("Wireline Broadband Order"), PRTC is required to file a notice of its intent to discontinue providing existing customers the common carrier broadband Internet access transmission services. By this letter and pursuant to the aforementioned, PRTC hereby notify the Commission that PRTC intends to discontinue offering DSL service on a common carriage basis effective on October 1, 2008 ("the effective date"). Consequently, after the effective date, PRTC will offer this service solely as a private carrier. By this change, the affected geographic areas include all the service territory of PRTC throughout the Commonwealth of Puerto Rico where DSL is available.

PRTC's price cap tariffs are in effect since July 1, 2008. Nevertheless, PRTC currently offers DSL over 512/256 kbps speed for broadband Internet access transmission on a permissively non-tariffed basis since August 1, 2006. Likewise, until November 16, 2007, PRTC offered DSL at 128/64 kbps speed under a grandfathered tariff basis from its FCC No. 1 Tariff.

After the effective date, PRTC will provide to existing DSL customers its current wireline broadband Internet access offering, commercially known as DMAX. Therefore, by this action the broadband Internet access will not be disrupted to those customers. The

Marlene Dortch, Secretary  
August 29, 2008  
Page 2

terms and conditions under which PRTC offers DMAX are available on PRTC's website at [www.telefonicapr.com](http://www.telefonicapr.com) and are also available for public inspection at PRTC's main corporate offices located at 1515 Roosevelt Avenue, Guaynabo, Puerto Rico 00968.

On August 28, 2008, PRTC sent a notification by means of U.S. Mail to all affected customers. A sample copy of the notification sent is attached.

A copy of this notice is also being sent to the Special Assistant for Telecommunications at the Department of Defense, the Governor of the Commonwealth of Puerto Rico, and the Telecommunications Regulatory Board of Puerto Rico.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Walter Arroyo-Carrasquillo', with a stylized flourish at the end.

/s/ Walter Arroyo-Carrasquillo  
Walter Arroyo-Carrasquillo,  
Regulatory and Government Affairs Director  
Puerto Rico Telephone Company, Inc.

Enclosure


## CERTIFICATE OF SERVICE

I, Carlos D. Ruiz-Mantilla hereby certify that true and correct copies of the forgoing Notice of Discontinuance of Common Carrier Broadband Internet Access Transmission Service were served this 29<sup>th</sup> day of August, 2008, by first class mail postage prepaid, to the following:

Secretary of Defense  
Attn: Special Assistant for Telecommunications  
Pentagon  
Washington, D.C. 20301

Governor Aníbal Acevedo Vilá  
La Fortaleza  
San Juan, Puerto Rico 00902-0082

Telecommunications Regulatory Board of Puerto Rico  
Capitol Center II Bldg.  
235 Arterial Hostos Avenue  
Suite 1001  
San Juan, Puerto Rico 00918-1453



Carlos D. Ruiz-Mantilla  
Carlos D. Ruiz-Mantilla



28 de agosto de 2008

[Nombre]  
[Dirección 1]  
[Dirección 2]

Estimado Cliente:

¡Buenas noticias para usted, una oferta difícil de resistir! Como cliente de DMAX, ahora podrá obtener nuestro servicio de DSL (banda ancha) e Internet con el doble de velocidad – 1 Mega – por tan sólo **\$24.95** al mes por los primeros 3 meses. Además, continuará con todos los beneficios que le ofrece **DMAX**, incluyendo 2 cuentas de correo electrónico y capacidad de almacenaje para páginas de Internet de 10 Mega. También cuenta con **PhoneMAX**, una segunda línea telefónica virtual, sin costo que le ofrece llamadas ilimitadas a toda la Isla gratis, llamadas a EE.UU. a 5¢ el minuto, y más.

A partir del 1ro. de octubre de 2008, PRT será su proveedor de DMAX. El precio a pagar si es cliente de DMAX 512 es \$24.95 y podrá disfrutar de 1 Mega de velocidad por los primeros tres meses. Si actualmente es cliente de DMAX 1 Mega, pagará \$24.95 en oferta por los primeros tres meses. Visite nuestra página [www.telefonica.pr.com](http://www.telefonica.pr.com) o comuníquese al (787) 775-0000 para más información sobre nuestra variada gama de servicios de telecomunicaciones.

Los clientes con DMAX 2 Mega pagarán \$59.95 y DMAX 5 Mega \$84.95 a partir del 1ro. de octubre de 2008.

Esta oferta surge a consecuencia de que Puerto Rico Telephone, conforme a la reglamentación federal vigente, discontinuará su ofrecimiento de transporte de banda ancha o DSL ("Digital Subscriber Line", por sus siglas en inglés) como un acarreador común, efectivo el 1 de octubre de 2008. A partir de esta fecha, se ofrecerá el servicio de acceso al Internet de banda ancha ("Broadband Internet Access", por sus siglas en inglés) como un acarreador privado. Dicho servicio incluye el transporte de banda ancha y el acceso al Internet como un solo servicio conocido comercialmente como DMAX. El área geográfica afectada por este cambio cubrirá a todo Puerto Rico, en los lugares donde el servicio de DSL está disponible.

Recuerde que en Puerto Rico Telephone estamos para servirle. Manténgase conectado siempre con **DMAX** de PRT.

Cordialmente,

Puerto Rico Telephone  
Ave. Roosevelt #1515  
Guaynabo, Puerto Rico 00968

Términos y condiciones en [www.telefonica.pr.com](http://www.telefonica.pr.com)

P.O. Box 360998, San Juan Puerto Rico 00936-0998

**ESTADO LIBRE ASOCIADO DE PUERTO RICO  
JUNTA REGLAMENTADORA DE TELECOMUNICACIONES  
DE PUERTO RICO**

**ENGINEERING SUPPORT SYSTEMS,  
INC. d/b/a PUERTO RICO  
WEBMASTERS**

**Querellante**

**vs.**

**PUERTO RICO TELEPHONE  
COMPANY, INC.**

**Querellada**

CASO NÚM.: JRT-2008-Q-0095

**RESOLUCIÓN Y ORDEN**

El 15 de septiembre de 2008 la querellante, Engineering Support Systems Inc., h/n/c Puerto Rico Webmasters, sometió ante este Foro *Complaint for Emergency Relief* contra Puerto Rico Telephone Company, Inc. Además sometió *Puerto Rico Webmaster's Memorandum of Law in Support of Request for Emergency Order and Temporary Injunction*.

Evaluados los escritos sometidos, esta Junta RESUELVE Y ORDENA:

*Se asume jurisdicción sobre la querella en este caso y en consideración a la emergencia conforme los hechos alegados, se ORDENA a la querellada someter su alegación responsiva en un plazo de cinco (5) días de la fecha de notificación de esta Resolución y Orden.*

*En protección de los derechos de los consumidores, esta Junta ORDENA además a PRTC abstenerse de cualquier acción relacionada con los hechos aquí alegados y cualquier acción dirigida al servicio a los consumidores mientras se dilucida esta acción ante este Foro.*

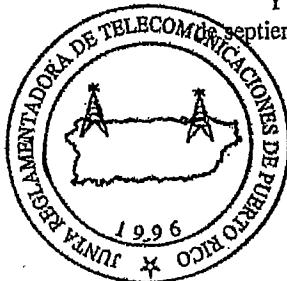
NOTIFÍQUESE esta Resolución y Orden a la querellante, por conducto de su representante legal, Lcdo. Francisco A. Rullán, Gray Robinson, P.A., 401 East Las Olas Boulevard, Suite 1850, Fort Lauderdale, FL 33301 y a la querellada por conducto de su Asesor Legal, Lcdo. Walter Arroyo, P.O. Box 360998, San Juan, Puerto Rico 00936.

Así lo acordó la Junta el 17 de septiembre de 2008.

**CERTIFICACIÓN**

CERTIFICO que la presente es copia fiel y exacta de la Resolución y Orden aprobada por la Junta, el 17 de septiembre de 2008. CERTIFICO, además, que hoy 19 de septiembre de 2008, he remitido copia de la presente Resolución y Orden a las partes indicadas en el Notifíquese y he procedido al archivo en autos de la misma.

Y PARA QUE ASÍ CONSTE, firmo la presente en San Juan, Puerto Rico, hoy 19 de septiembre de 2008.



*Ciorah J. Montes Gilormini*  
CIORAH J. MONTES GILORMINI  
Secretaria de la Junta